

ASSEMBLY BILL

No. 283

Introduced by Assembly Member Dababneh

February 11, 2015

An act to amend and repeal Sections 53601.8 and 53635.8 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 283, as introduced, Dababneh. Financial affairs.

Existing law prescribes the instruments in, and criteria by which, a local agency, as defined, may invest and deposit its funds, including its surplus funds. Existing law, until January 1, 2017, authorizes, under certain conditions, a local agency to invest up to a certain percentage of its surplus funds in deposits at specified types of financial institutions that use a private sector entity to assist in the placement of deposits, whether those investments are certificates of deposit or in another form. With respect to investments other than a certificate of deposit, existing law limits the percentage of local agency funds that may be invested by any one private sector entity. Existing law, on and after January 1, 2017, limits this authority to invest surplus funds to investments in certificates of deposit.

This bill would eliminate the limitation that would become operative on January 1, 2017, and thus would indefinitely continue the existing authority for a local agency to invest its surplus funds, in certificates of deposit or in another form of investment. This bill would also remove the limit on the percentage of local agency funds that may be invested by any one private sector entity.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 53601.8 of the Government Code, as amended by Section 1 of Chapter 228 of the Statutes of 2013, is amended to read:

53601.8. Notwithstanding Section 53601 or any other provision of this code, a local agency that has the authority under law to invest funds, at its discretion, may invest a portion of its surplus funds in deposits at a commercial bank, savings bank, savings and loan association, or credit union that uses a private sector entity that assists in the placement of deposits. The following conditions shall apply:

(a) The local agency shall choose a nationally or state chartered commercial bank, savings bank, savings and loan association, or credit union in this state to invest the funds, which shall be known as the “selected” depository institution.

(b) The selected depository institution may use a private sector entity to help place local agency deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States and are within the network used by the private sector entity for this purpose.

(c) Any private sector entity used by a selected depository institution to help place its local agency deposits shall maintain policies and procedures requiring both of the following:

(1) The full amount of each deposit placed pursuant to subdivision (b) and the interest that may accrue on each such deposit shall at all times be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(2) Every depository institution where funds are placed shall be capitalized at a level that is sufficient, and be otherwise eligible, to receive such deposits pursuant to regulations of the Federal Deposit Insurance Corporation or the National Credit Union Administration, as applicable.

(d) The selected depository institution shall serve as a custodian for each such deposit.

(e) On the same date that the local agency’s funds are placed pursuant to subdivision (b) by the private sector entity, the selected depository institution shall receive an amount of insured deposits from other financial institutions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially

1 deposited through the selected depository institution pursuant to
2 subdivision (b).

3 (f) Notwithstanding subdivisions (a) to (e), inclusive, a credit
4 union shall not act as a selected depository institution under this
5 section or Section 53635.8 unless both of the following conditions
6 are satisfied:

7 (1) The credit union offers federal depository insurance through
8 the National Credit Union Administration.

9 (2) The credit union is in possession of written guidance or other
10 written communication from the National Credit Union
11 Administration authorizing participation of federally insured credit
12 unions in one or more deposit placement services and affirming
13 that the moneys held by those credit unions while participating in
14 a deposit placement service will at all times be insured by the
15 federal government.

16 (g) It is the intent of the Legislature that this section shall not
17 restrict competition among private sector entities that provide
18 placement services pursuant to this section.

19 (h) The deposits placed pursuant to this section and Section
20 53635.8 shall not, in total, exceed 30 percent of the agency's funds
21 that may be invested for this purpose.

22 ~~(i) Purchases of certificates of deposit pursuant to this section;~~
23 ~~Section 53635.8, and subdivision (i) of Section 53601 shall not,~~
24 ~~in total, exceed 30 percent of the agency's funds that may be~~
25 ~~invested for this purpose.~~

26 ~~(j) Excluding purchases of certificates of deposit pursuant to~~
27 ~~this section, no more than 10 percent of the agency's funds that~~
28 ~~may be invested for this purpose may be submitted, pursuant to~~
29 ~~subdivision (b), to any one private sector entity that assists in the~~
30 ~~placement of deposits with one or more commercial banks, savings~~
31 ~~banks, savings and loan associations, or credit unions that are~~
32 ~~located in the United States, for the local agency's account.~~

33 ~~(k) This section shall remain in effect only until January 1, 2017,~~
34 ~~and as of that date is repealed, unless a later enacted statute, that~~
35 ~~is enacted before January 1, 2017, deletes or extends that date.~~

36 SEC. 2. Section 53601.8 of the Government Code, as added
37 by Section 2 of Chapter 228 of the Statutes of 2013, is repealed.

38 ~~53601.8. Notwithstanding Section 53601 or any other provision~~
39 ~~of this code, a local agency that has the authority under law to~~
40 ~~invest funds may, at its discretion, invest a portion of its surplus~~

1 funds in certificates of deposit at a commercial bank, savings bank,
2 savings and loan association, or credit union that uses a private
3 sector entity that assists in the placement of certificates of deposit,
4 provided that the purchases of certificates of deposit pursuant to
5 this section, Section 53635.8, and subdivision (i) of Section 53601
6 do not, in total, exceed 30 percent of the agency's funds that may
7 be invested for this purpose. The following conditions shall apply:

8 (a) ~~The local agency shall choose a nationally or state-chartered~~
9 ~~commercial bank, savings bank, savings and loan association, or~~
10 ~~credit union in this state to invest the funds, which shall be known~~
11 ~~as the "selected" depository institution.~~

12 (b) ~~The selected depository institution may submit the funds to~~
13 ~~a private sector entity that assists in the placement of certificates~~
14 ~~of deposit with one or more commercial banks, savings banks,~~
15 ~~savings and loan associations, or credit unions that are located in~~
16 ~~the United States for the local agency's account.~~

17 (c) ~~The full amount of the principal and the interest that may~~
18 ~~be accrued during the maximum term of each certificate of deposit~~
19 ~~shall at all times be insured by the Federal Deposit Insurance~~
20 ~~Corporation or the National Credit Union Administration.~~

21 (d) ~~The selected depository institution shall serve as a custodian~~
22 ~~for each certificate of deposit that is issued with the placement~~
23 ~~service for the local agency's account.~~

24 (e) ~~At the same time the local agency's funds are deposited and~~
25 ~~the certificates of deposit are issued, the selected depository~~
26 ~~institution shall receive an amount of deposits from other~~
27 ~~commercial banks, savings banks, savings and loan associations,~~
28 ~~or credit unions that, in total, are equal to, or greater than, the full~~
29 ~~amount of the principal that the local agency initially deposited~~
30 ~~through the selected depository institution for investment.~~

31 (f) ~~Notwithstanding subdivisions (a) to (e), inclusive, no credit~~
32 ~~union may act as a selected depository institution under this section~~
33 ~~or Section 53635.8 unless both of the following conditions are~~
34 ~~satisfied:~~

35 (1) ~~The credit union offers federal depository insurance through~~
36 ~~the National Credit Union Administration.~~

37 (2) ~~The credit union is in possession of written guidance or other~~
38 ~~written communication from the National Credit Union~~
39 ~~Administration authorizing participation of federally insured credit~~
40 ~~unions in one or more certificate of deposit placement services~~

1 and affirming that the moneys held by those credit unions while
2 participating in a deposit placement service will at all times be
3 insured by the federal government.

4 ~~(g) It is the intent of the Legislature that this section shall not~~
5 ~~restrict competition among private sector entities that provide~~
6 ~~placement services pursuant to this section.~~

7 ~~(h) This section shall become operative on January 1, 2017.~~

8 SEC. 3. Section 53635.8 of the Government Code, as amended
9 by Section 3 of Chapter 228 of the Statutes of 2013, is amended
10 to read:

11 53635.8. Notwithstanding Section 53601 or any other provision
12 of this code, a local agency that has the authority under law to
13 invest funds, at its discretion, may invest a portion of its surplus
14 funds in deposits at a commercial bank, savings bank, savings and
15 loan association, or credit union that uses a private sector entity
16 that assists in the placement of deposits. The following conditions
17 shall apply:

18 (a) The local agency shall choose a nationally or state-chartered
19 commercial bank, savings bank, savings and loan association, or
20 credit union in this state to invest the funds, which shall be known
21 as the “selected” depository institution.

22 (b) The selected depository institution may use a private sector
23 entity to help place local agency deposits with one or more
24 commercial banks, savings banks, savings and loan associations,
25 or credit unions that are located in the United States and are within
26 the network used by the private sector entity for this purpose.

27 (c) Any private sector entity used by a selected depository
28 institution to help place its local agency deposits shall maintain
29 policies and procedures requiring both of the following:

30 (1) The full amount of each deposit placed pursuant to
31 subdivision (b) and the interest that may accrue on each such
32 deposit shall at all times be insured by the Federal Deposit
33 Insurance Corporation or the National Credit Union Administration.

34 (2) Every depository institution where funds are placed shall
35 be capitalized at a level that is sufficient, and be otherwise eligible,
36 to receive such deposits pursuant to regulations of the Federal
37 Deposit Insurance Corporation or the National Credit Union
38 Administration, as applicable.

39 (d) The selected depository institution shall serve as a custodian
40 for each such deposit.

(e) On the same date that the local agency's funds are placed pursuant to subdivision (b) by the private sector entity, the selected depository institution shall receive an amount of insured deposits from other financial institutions that, in total, are equal to, or greater than, the full amount of the principal that the local agency initially deposited through the selected depository institution for investment pursuant to subdivision (b).

(f) Notwithstanding subdivisions (a) to (e), inclusive, a credit union shall not act as a selected depository institution under this section or Section 53601.8 unless both of the following conditions are satisfied:

(1) The credit union offers federal depository insurance through the National Credit Union Administration.

(2) The credit union is in possession of written guidance or other written communication from the National Credit Union Administration authorizing participation of federally insured credit unions in one or more deposit placement services and affirming that the moneys held by those credit unions while participating in a deposit placement service will at all times be insured by the federal government.

(g) It is the intent of the Legislature that this section shall not restrict competition among private sector entities that provide placement services pursuant to this section.

(h) The deposits placed pursuant to this section and Section 53601.8 shall not, in total, exceed 30 percent of the agency's funds that may be invested for this purpose.

~~(i) Purchases of certificates of deposit pursuant to this section, Section 53601.8, and subdivision (i) of Section 53601 shall not, in total, exceed 30 percent of the agency's funds that may be invested for this purpose.~~

~~(j) Excluding purchases of certificates of deposit pursuant to this section, no more than 10 percent of the agency's funds that may be invested for this purpose may be submitted, pursuant to subdivision (b), to any one private sector entity that assists in the placement of deposits with one or more commercial banks, savings banks, savings and loan associations, or credit unions that are located in the United States, for the local agency's account.~~

~~(k) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.~~

1 SEC. 4. Section 53635.8 of the Government Code, as added
2 by Section 4 of Chapter 228 of the Statutes of 2013, is repealed.

3 ~~53635.8. Notwithstanding Section 53601 or any other provision~~
4 ~~of this code, a local agency that has the authority under law to~~
5 ~~invest funds, at its discretion, may invest a portion of its surplus~~
6 ~~funds in certificates of deposit at a commercial bank, savings bank,~~
7 ~~savings and loan association, or credit union that uses a private~~
8 ~~sector entity that assists in the placement of certificates of deposit;~~
9 ~~provided that the purchases of certificates of deposit pursuant to~~
10 ~~this section, Section 53601.8, and subdivision (i) of Section 53601~~
11 ~~do not, in total, exceed 30 percent of the agency's funds that may~~
12 ~~be invested for this purpose. The following conditions shall apply:~~

13 ~~(a) The local agency shall choose a nationally or state-chartered~~
14 ~~commercial bank, savings bank, savings and loan association, or~~
15 ~~credit union in this state to invest the funds, which shall be known~~
16 ~~as the "selected" depository institution.~~

17 ~~(b) The selected depository institution may submit the funds to~~
18 ~~a private sector entity that assists in the placement of certificates~~
19 ~~of deposit with one or more commercial banks, savings banks,~~
20 ~~savings and loan associations, or credit unions that are located in~~
21 ~~the United States, for the local agency's account.~~

22 ~~(c) The full amount of the principal and the interest that may~~
23 ~~be accrued during the maximum term of each certificate of deposit~~
24 ~~shall at all times be insured by the Federal Deposit Insurance~~
25 ~~Corporation or the National Credit Union Administration.~~

26 ~~(d) The selected depository institution shall serve as a custodian~~
27 ~~for each certificate of deposit that is issued with the placement~~
28 ~~service for the local agency's account.~~

29 ~~(e) At the same time the local agency's funds are deposited and~~
30 ~~the certificates of deposit are issued, the selected depository~~
31 ~~institution shall receive an amount of deposits from other~~
32 ~~commercial banks, savings banks, savings and loan associations,~~
33 ~~or credit unions that, in total, are equal to, or greater than, the full~~
34 ~~amount of the principal that the local agency initially deposited~~
35 ~~through the selected depository institution for investment.~~

36 ~~(f) Notwithstanding subdivisions (a) to (e), inclusive, a credit~~
37 ~~union shall not act as a selected depository institution under this~~
38 ~~section or Section 53601.8 unless both of the following conditions~~
39 ~~are satisfied:~~

- 1 ~~(1) The credit union offers federal depository insurance through~~
2 ~~the National Credit Union Administration.~~
- 3 ~~(2) The credit union is in possession of written guidance or other~~
4 ~~written communication from the National Credit Union~~
5 ~~Administration authorizing participation of federally insured credit~~
6 ~~unions in one or more certificate of deposit placement services~~
7 ~~and affirming that the moneys held by those credit unions while~~
8 ~~participating in a deposit placement service will at all times be~~
9 ~~insured by the federal government.~~
- 10 ~~(g) It is the intent of the Legislature that this section shall not~~
11 ~~restrict competition among private sector entities that provide~~
12 ~~placement services pursuant to this section.~~
- 13 ~~(h) This section shall become operative on January 1, 2017.~~